

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 26 January 2007

Case No.: 2006-RIS-00018

In the Matter of

**U.S. DEPARTMENT OF LABOR,
EMPLOYEE BENEFITS
SECURITY ADMINISTRATION,**
Complainant,

v.

**CAROLINA ELECTRICAL WORKERS
RETIREMENT FUND,**
Respondent.

**DECISION AND ORDER APPROVING
SETTLEMENT AGREEMENT
AND DISMISSING CASE**

This matter arises under the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1132, 1135 and the Secretary's Order 1-87, 53 Fed. Reg. 13,139 (1987) as implemented by regulations found at 29 C.F.R. Parts 2560 and 2570. The Complainant, the Employee Benefits Security Administration, U.S. Department of Labor (EBSA), filed an administrative complaint against the Respondent, plan administrator of the Carolina Electrical Workers Retirement Fund, pursuant to section 502(c)(2) of ERISA, 29 U.S.C. § 1132(c)(2), alleging violations of sections 101(b)(4) and 104(a)(1)(A) of ERISA, 29 U.S.C. §§ 1021(b)(4) and 1024(a)(1)(A), for failure to file an annual report for the 2003 plan year that contained a report of an independent qualified public accountant, as described in §§ 103(a)(1)(B) and (3)(A), 29 U.S.C. §§ 1023(a)(1)(B) and (3)(A).

By Notice of Hearing dated September 18, 2006, a hearing in this matter was scheduled for Thursday, January 18, 2007, in Nashville, Tennessee. On December 18, 2007, counsel for the Respondent filed the parties' Joint Motion for Continuance, requesting that the pre-hearing deadlines be moved to January 18, 2007, and that the hearing be rescheduled, so that the parties could pursue settlement negotiations. On January 25, 2007, the parties submitted a joint Notice of Settlement, Stipulation for Dismissal and Order, stating that the parties had settled the matter and requesting that the claim be dismissed with prejudice. The parties' settlement agreement is incorporated herein by reference.

Title 29, Part 2570.65 of the Code of Federal Regulations governs settlements for complaints filed under section 502(c)(2) of ERISA and states:

(d) Disposition. In the event a settlement agreement containing consent findings and an order is submitted within the time allowed therefore, the administrative law judge shall issue a decision incorporating such findings and agreement within thirty (30) days of his receipt of such document. The decision of the administrative law judge shall incorporate all of the findings, terms, and conditions of the settlement agreement and consent order of the parties. Such decision shall become final agency action within the meaning of 5 U.S.C. 704.

29 C.F.R. § 2570.65(d). Pursuant to section 2570.65(b), the parties' settlement agreement must provide: (1) that the agreement shall have the same force and effect as an order made after full hearing, (2) that the entire record on which any order may be based shall consist solely of the notice and the agreement, (3) a waiver of any further procedural steps before the administrative law judge, (4) a waiver of any right to challenge or contest the validity of the order and decision entered into in accordance with the agreement, and (5) that the order and decision of the administrative law judge shall be final agency action. 20 C.F.R. §§ 2570.65(b)(1)-(5).

After review of the parties joint Notice of Settlement, Stipulation for Dismissal and Order, I find that the terms, form, and substance of the settlement agreement satisfy 20 C.F.R. § 2570.65(b) and are fair to resolve all disputed matters in this case. Accordingly, the parties' joint stipulation as incorporated herein is **APPROVED**. Furthermore, as the actions of the parties obviate the need to proceed further in this matter, it is **ORDERED** that this case is **DISMISSED** with prejudice. **SO ORDERED**.

A

John M. Vittone
Chief Administrative Law Judge